

REMARKS

Entry of the foregoing amendments, and reexamination and reconsideration of the subject application, pursuant to and consistent with 37 C.F.R. § 1.104, and in light of the following remarks, are respectfully requested.

Amendments and Drawings

Claim 6 has been amended to recite that the angle is a direct bridge between a tile and the support grid (support or crosspiece), and to more particularly recite that the tiles abut where adjacent.

The dependency of claim 8 has been corrected.

Claim 18 is amended to recite that the space recite can accommodate piping, as described in the specification (at least at page 5, lines 9-10), and so not reciting the piping *per se* the objection to the drawings may now be withdrawn.

No new matter is presented.

Rejections under 35 U.S.C. §102

The rejection of claims 6 and 8-24 as anticipated by Bado is vigorously yet respectfully traversed.

Claim 6 specifically recites that adjacent tiles are abutting ("abut edgewise" in claim 6 prior to the instant amendment and, *e.g.*, applicant's Figs. 12 and 14). Claim 6 has now been amended to emphasize that structure. In contrast, Fig. 6 of Bado shows a space (unnumbered, where the arrow for element (190) is shown) between adjacent tiles. Accordingly, the Bado structure is different than claimed because the Bado cladding tiles do not abut to all adjacent tiles.

As previously presented, claim 6 required the angle to connect from the fixture embedded in the tile to the support grid, and claim 6 is now amended to emphasize this structure, that the angle is connected directly to the fixture in the tile and directly to the support structure. In contrast, Bado has a cement sheeting (40; see last paragraph at col. 4) interposed between a structure attached to the tile and the support structure (applicant's supports and crosspieces, and elements (10) and (20) in Bado). Bado thus

interposes an *additional* element not recited in Claim 6 nor contemplated by the present invention.

Even further, claim 6 as presented prior to the instant amendment recited that the fixtures are “embedded” in the settable tile material when it sets. Fig. 7 of Bado and the accompanying disclosure shows a number of undercuts by which the cladding board (100) is hung. There is no fixture “embedded” in the cladding board of Bado as the term is used and described by applicant. The use of the word “embedded” by Bado is clearly not what is claimed by applicant. Bado does not have a fixture “embedded in the tile when said material sets” as recited in claim 6 prior to the final rejection. In stark contrast, Bado clearly shows in Fig. 7 “undercut portions 210 and 220 adapted to receive the small threaded disks or captive nuts 230.” (Col. 5, ln. 62-63.) It is that disk or nut that is “embedded” in the cutout of the cladding board with reference to the examiner’s citation to col. 5, ln. 64-65 in Bado.

Accordingly, even without the present amendment, Bado does not anticipate the present claims because neither abutting tiles nor an embedded fixture are described in the reference, and so this rejection should be withdrawn.

Rejection under 35 U.S.C. §103(a)

The rejection of various claims as obvious over Bado in combination with various secondary references is respectfully traversed.

As shown above as to the rejection based on anticipation, Bado fails to disclose a fixture embedded in the tile when it sets and abutting tiles, and includes an additional element between the structure attached to the tile and the main support structure.

With respect to claims 15 and 16, because Bado has a cement sheeting (40) overlying the support structure, no structure in Bado can be welded to the cement sheeting. Accordingly, it would not have been obvious to connect the angles by welding unless one eliminates an essential element of the Bado structure, and the need to eliminate an essential element from the reference is thus a teaching away from the present invention.

Other than tongue-and-groove tiles, which are well-known in various arts, Dobija fails to overcome the deficiencies in Bado. From Dobija's Figs. 9 and 10 (for example) it is seen that the panels are sandwiched between the support structure (76b) and a rail (16b) attached to the subwall (17). Accordingly, the tiles do not abut, they are separated by the rail, and there is no separate angle attachment structure, and neither would it be possible to create any space for piping between the tile and the support structure because of the sandwiching relationship.

Reel, directed to roofs and floors, not to walls, has a direct attachment of the tile to the support structure with an embedded clip. There is no angle connection element, and because of the clipping attachment it would not be possible to create a space separating all of the tiles from all of the support structure to, for example, accommodate piping..

Thus, none of the claims, and especially independent claim 6, would have been obvious from any combination of these references. The structures described by Bado and Dobija are seen to use much more material than applicant, with Bado having various connection elements and a cement sheeting, and Dobija having rails and Dobija having at least additional clips and adhesive to attach the panels. Applicant's structure is simpler and less expensive based on the number of elements in the wall structure and the labor needed to construct it. For example, Bado requires multiple fixtures to attach the tile (in which cutouts must be made) to a cement sheet which is then attached to a grid-like support, whereas applicant has a single angle connecting a fixture embedded in the tile directly to the grid-like support structure. Accordingly, the rejections under 35 U.S.C. §103(a) should now be withdrawn.

Impropriety of the Finality of the Rejection

Because Bado does not anticipate claim 6 prior to the present amendment, designation of the present rejection as final is improper and should be withdrawn. As shown, Bado fails to disclose abutting panels and fails to disclose a "fixture having a portion thereof embedded in the tile when said material sets." As claim 6 is the only independent claim, and was only rejected as anticipated, and, as shown above, this

rejection for anticipation apparently fails to consider the particular language added by the previous amendment (that a portion of the fixture be embedded when the material sets), designation of the rejection as final is improper and should be withdrawn because the previous amendment did not necessitate the present rejection. In addition, the present amendments to claim 6 are made merely to clarify what was explicitly present in the claim and to highlight the differences between the claimed invention and the cited art which failed to show the literal structure claimed or inserted additional structure between the claimed element connections, and so could not have been presented earlier. Accordingly, withdrawal of the finality of the rejections is warranted.

In conclusion, all of the objections and rejections have been addressed and overcome, and so further and favorable action, in the form of an allowance, is believed to be warranted and is earnestly solicited.